

October 13, 2005

TO: City of Lincoln Personnel Board Members

SUBJECT: Personnel Board Meeting
Thursday, October 20, 2005
1:30 p.m., Council Chambers
County-City Building

A G E N D A

- ITEM 1: Request to amend Section 2.76.175 of the Lincoln Municipal Code — Compensation Plan; Promotion, Transfer, Demotion, or Temporary Promotion.
- ITEM 2: Request to amend Section 2.76.380 of the Lincoln Municipal Code — Sick Leave with Pay.
- ITEM 3: Request for grievance hearing – John Arnold, III — Lincoln Fire and Rescue.
- ITEM 4: Request for grievance hearing – IAFF & John Arnold, III — Lincoln Fire and Rescue.
- ITEM 5: Election of Chair.
- ITEM 6: Election of Vice-Chair.
- ITEM 7: Miscellaneous Discussion.

PC: Joan Ross, City Clerk
John Arnold, III
Mike Spadt
John Corrigan

2.76.175 Compensation Plan; Promotion, Transfer, Demotion, or Temporary Promotion.

(a) In the case of promotion for an employee with a pay range prefixed by "N" or "X", the rate of the promoted employee shall be increased to that step in the higher range next above his rate of pay prior to promotion. In the case of promotion for an employee with a pay range prefixed by "E" or "M", such increase is intended to be at least five percent. In the case of transfer, the employee's rate will remain unchanged at the time of transfer. In the case of an involuntary demotion for an employee with a pay range prefixed by "E" or "M", the rate of pay shall be reduced at least four and one-half percent. Under no circumstances shall the new rate exceed the maximum rate for the lower class in the variable merit pay plan.

In the case of a voluntary demotion for an employee with a pay range prefixed by "E" or "M", the employee concerned shall normally be paid at the same rate in the lower pay range. If the employee's rate of pay exceeds the maximum rate of the lower pay range, the employee's rate of pay shall be frozen (red-circled) until such time that the maximum rate, through general increases, makes sufficient upward movement so that it exceeds the employee's rate of pay. When the maximum rate meets or exceeds the employee's frozen (red-circled) rate through general increases, the employee's frozen rate of pay shall then increase to the maximum rate. However, if after one year the maximum rate does not meet or exceed the employee's frozen (red-circled) rate of pay, the employee's rate of pay will be reduced four and one-half percent (4.5%) or to the maximum rate, whichever results in the smallest decrease in pay. Each year thereafter, the employee's rate of pay shall be reduced an additional four and one-half percent (4.5%) or to the maximum rate, which ever results in the smallest decrease in pay.

In the case of demotion for an employee with a pay range prefixed by "N" or "X", the rate of the demoted employee shall be reduced to the next lower step for the lower class and under no circumstances shall the new rate exceed the maximum rate for the lower class in the merit pay plan.

(b) A promotion of any employee during such employee's probationary period shall have the effect of ending the probationary period for that employee and making such employee a regular employee. However, a reclassification of a probationary employee to a position in a newly created class with a higher pay range will not terminate the probationary period.

(c) Any regular employee, with a pay range prefixed by "A", "M" or "P", may be temporarily promoted to fill a budgeted position which is temporarily vacant and has a higher

maximum salary than provided by such employee's current pay range. Such temporary promotion must first be approved in writing by the director only after the department head demonstrates that the employee is qualified for the vacant position. Once granted, the employee must actually perform the duties of the vacant position and shall be paid at the rate of at least five percent above the employee's current base salary, or at the minimum rate of the established range of the vacant position, whichever is greater, but any increase in pay greater than five percent must be approved in writing by the Director. No temporary promotion shall be granted for less than forty hours or continue longer than one year from the date of the original assignment and approval by the Director.

(d) Any regular employee, with a pay range prefixed by "A" may be temporarily promoted to fill a budgeted position which is temporarily vacant and has a higher maximum salary than provided by such employee's current pay range. Such temporary promotion must first be approved in writing by the director only after the department head demonstrates that the employee is qualified for the vacant position. Once granted, the employee must actually perform the duties of the vacant position and shall be paid at the rate of at least the next higher step above the employee's current rate of pay which results in at least a 3.25% increase, or at the minimum rate of the established range of the vacant position, whichever is greater, but any increase in pay greater than two steps must be approved in writing by the Director. No temporary promotion shall be granted for less than forty hours or continue longer than one year from the date of the original assignment unless specifically authorized by the Personnel Director for a longer period of time.

2.76.380 Sick Leave with Pay.

Subsections (a) through ~~(f)~~ (g) shall apply to employees not represented by a bargaining unit.

(a) Amount. Sick leave shall be earned by each employee at the factored hourly equivalent of eight hours for each full month of service or twelve hours for each full month of service for an employee with a pay range prefixed by "M" who works a fifty-six hour work week. Earnings shall be computed only for those hours when an eligible employee is in a pay status, excluding overtime.

(b) When taken. Sick leave will be paid only when an employee is unable to perform work duties due to actual personal illness, noncompensable bodily injury, pregnancy, or disease, exposure to contagious disease under circumstances in which the health of other employees or the public would be endangered by attendance on duty, or to keep a medical or dental appointment and for no other reason. A sick leave pay account will be established and funds appropriated for that reason only. Sick leave with pay is intended to be paid on account of sickness rather than a continuation of salary.

Sick leave must be earned before it can be granted, and advancing sick leave is prohibited. An employee may utilize no more than his accrued balance of sick leave. When an employee finds it necessary to be absent for any of the reasons specified herein, the employee shall cause the facts to be reported to his department head in accordance with departmental rules and regulations.

Sick leave shall be earned, but not be granted, during the probationary period occurring after original appointment. An employee must keep his department head informed of his condition. This shall be on a daily basis unless waived by the department head or designated representative. An employee may be required by the Personnel Director to submit a medical certificate for any absence. Failure to fulfill these requirements may result in denial of sick leave. No refund of vacation time shall be allowed due to illness incurred while on vacation leave. Sick leave shall not accrue during any period of leave of absence without pay.

(c) Accumulated sick leave. The accumulation of unused sick leave is unlimited.

(d) Unused sick leave. Upon retirement, death or reduction in force, an employee with a pay range prefixed by "E" or "M", or the employee's beneficiary, shall be paid one-half of his accumulated sick leave. The rate of payment shall be based upon the employee's regular hourly rate of pay at the time the employee retires, is laid off, or at the time of the employee's death.

Upon retirement, death or reduction in force, an employee with a pay range prefixed by "N" or "X", or the employee's beneficiary, shall be paid one-fourth of his accumulated sick leave. The rate of payment shall be based upon the employee's regular hourly rate of pay at the time the employee retires, is laid off, or at the time of the employee's death.

Upon retirement, death or reduction in force, an employee with a pay range prefixed by "A" or "C", or the employee's beneficiary, shall be paid one-half of his accumulated sick leave. The rate of payment shall be based upon the employee's regular hourly rate of pay at the time the employee retires, is laid off, or at the time of the employee's death.

(e) An employee with a pay range prefixed by "~~E~~", "~~M~~", "A", or "C" may be granted time off for a maximum of sixty hours in each calendar year for illness in the employee's immediate family. Immediate family will also include any other family member, whether it be by blood, marriage, legal adoption, or foster children, residing in the household. Family sick leave may also be granted to an employee who has been appointed by a court of competent jurisdiction as legal guardian of any person, with proper documentation. Such time off will be deducted from the employee's accumulated sick leave. Upon written request from an employee in the above-referenced pay ranges, the Personnel Director may waive the ~~forty~~ or sixty hour limit after reviewing the individual circumstances in support of the request.

(f) An employee with a pay range prefixed by "N" or "X" may be granted time off for a maximum of forty hours in each calendar year for illness in the employee's immediate family. For purposes of this subsection (f), the term immediate family shall include the employee's mother, father, sister, brother, husband, wife, child, foster child, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepmother, stepfather, stepchild, stepgrandchild, grandparent, grandchild, and the grandparent of the employee's spouse, or any other relative residing in the household. Family sick leave may also be granted to an employee who has been appointed by a court of competent jurisdiction as legal guardian of any person, with proper documentation. Such time off will be deducted from the employee's accumulated sick leave. Upon written request from an employee in the above-referenced pay ranges, the Personnel Director may waive the forty hour limit after reviewing the individual circumstances in support of the request.

(g) An employee with a pay range prefixed by "E" or "M" may be granted time off for a maximum of sixty hours in each calendar year for illness in the employee's immediate family. For purposes of this subsection (g), the term immediate family shall include the employee's mother, father, sister, brother, husband, wife, child, foster child, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepmother, stepfather, stepchild, stepgrandchild, grandparent,

grandchild, and the grandparent of the employee's spouse. Immediate family will also include any other family member, whether it be by blood, marriage, legal adoption, or foster children, residing in the household. Family sick leave may also be granted to an employee who has been appointed by a court of competent jurisdiction as legal guardian of any person, with proper documentation. Such time off will be deducted from the employee's accumulated sick leave. Upon written request from an employee in the above-referenced pay ranges, the Personnel Director may waive the sixty hour limit after reviewing the individual circumstances in support of the request.



Lincoln Fire & Rescue
Mike Spadt, Fire Chief
1801 "Q" Street
Lincoln, Nebraska 68508



402-441-7363
fax: 402-441-7098



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MAYOR COLEEN J. SENG

lincoln.ne.gov

June 1, 2005

David Engler, Vice President
Local #644 -IAFF
241 Victory Lane
Lincoln, NE 68528

Dave:

With respect to the grievance you filed on behalf of Local #644 where you assert that a violation of Article 27, Sections 1 and 3 have taken place, I am denying this grievance based on the following information.

Article 27 applies to those individuals reentering the workplace after long breaks in service (10 shifts) for either illness or injury.

Mr. Dillon, which you name as an affected party, was not subjected to Article 27 in his most recent absence from work. Mr. Dillon was removed for medical reasons during his annual physical which was scheduled and performed on March 23, 2005. As a result of Mr. Dillon's being away from work for a couple of months, he was subjected to a fitness for duty evaluation on May 23, 2005 after being cleared by his personal physician. Mr. Dillon successfully fulfilled the requirements of this exam and is back to work.

As for the performance measure for donning and doffing Self Contained Breathing apparatus and protective ensemble, this is and has been an expectation of the department and is found in Management Policy 302.03, Applying Protective Clothing and Respiratory Equipment, not Management Policy 306.03

If this does not satisfy your request, please feel free to contact the Personnel Director to arrange for Step 2 of the grievance and arbitration procedure.

Sincerely,

Michael L. Spadt
Fire Chief

MLS/sy
C: File

CITY - COUNTY PERSONNEL
2005 JUN 16 AM 10 42

**GRIEVANCE UNDER AGREEMENT BETWEEN
FIREFIGHTERS' UNION LOCAL 644
AND THE CITY OF LINCOLN**

CITY - COUNTY PERSONNEL
2005 JUL 27 AM 10 10

DATED THIS 11th day of May, 2005.

The name of the Grievant is:

International Association of Firefighters Local 644 and individual members of the Union adversely affected.

The act or acts of commission or omission:

The Fire Department's current implementation of Lincoln Fire and Rescue management policy, fitness for duty, MP306.03, whereby the city implements its fitness for duty review pursuant to Article 27 of the collective bargaining agreement is in violation of Sections 1 and 3 of Article 27 because the City is implementing a so-called fitness test and is requiring a two minute limit to dress into turnout gear, which is a condition not agreed upon by the Union as a fitness for duty standard under Section 1 of Article 27 and not in the conditions set forth in the management policy identified as MP306.03 3-04. Further the City, through the Fire Department administration, is failing to comply with Article 27, Section 3 of the collective bargaining agreement by requiring firefighters who are found not to be fit for duty under the initial test to pay costs associated with the rehabilitation to return to service, and individuals are being required to submit request for payment for treatment to their health insurance, which requires the employee to pay a co-pay amount. Rich Dillon, Firefighter, is but one example of the individuals who have undergone a violation of their contract rights by the City's conduct as described herein.

The identity of party or parties alleged to have caused the grievance:

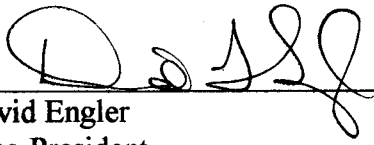
Fire Department administration, including the Fire Chief and all others responsible for implementing the fitness for duty policy as identified above.

The specific provisions of the agreement that are alleged to have been violated:

Article 27, Sections 1 and 3, and all other applicable articles.

Remedy which is sought:

The City shall make Mr. Dillon and all other similarly situated employees whole by paying the costs of rehabilitation for care required to return to work after fitness for duty evaluations and shall in all future instances comply with the contractual provisions as set forth in Article 27.

A handwritten signature in black ink, appearing to read 'D. Engler', is written over a horizontal line.

David Engler

Vice-President

On Behalf of Grievant and IAFF Local 644

CITY - COUNTY PERSONNEL.

Don. Tante.

2005 JUN 20 PM 1:53
Personel Director City of
Lincoln

I hero by request
a hearing in front
of the personnel board

John A. Arnold III
6-20-05

Please e-mail me
that you have recieved
this



June 17, 2005

John Arnold
905 South 112th
Lincoln, NE 68520

Dear John:

This letter is in response to your grievance dated May 26, 2005, and received on May 27, 2005, citing violations of Article 4, page 4, Section 1 & 3, Article 5, page 5, and Article 35, page 47 of the current contract. You state, "Grievant was denied the right to use his own physician for the annual physical".

As part of the Grievance and Arbitration procedure contained in the agreement between the city of Lincoln and Lincoln Firefighters Association, Article 24, Section 4, Step 1, the department head will render a written decision within ten (10) working days of the meeting with the employee. June 7, 2005 was the date of your meeting.

On Friday, March 4th, 2005 I sent a memo to all personnel indicating that an employee no longer had the option to choose their own physician for their annual physical, and that all employees would be required to participate with Saint Elizabeth Company Care for their annual physical. The following Thursday, March 10, 2005 this subject was discussed at length with the Union Executive Board at our scheduled Labor/Management meeting and no concerns were raised after discussion.

I would like to provide you with the language of Article 3, titled, "Management Rights", in the agreement between the City of Lincoln and the Lincoln Firefighters Association. "Except as limited by the express provisions of this agreement, nothing herein shall be construed or interpreted to restrict, limit, or impair the management rights, powers, and authority of the City. Said rights, powers, and authority shall include, but are not limited to, the right of the City to manage and supervise all of it's operations. The union acknowledges the concept of the City's inherent management rights.

Finally with respect to the savings clause of Article 35 of the agreement between the City of Lincoln and Firefighters Association, it would be the opinion that this article is not applicable in this matter.

Based on the above information, I am denying your grievance. You may request a hearing in front of the Personnel Board, or arbitrator through the Personnel Director. You must submit a letter of request to the Personnel Director within five (5) days from this decision.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Spadt". The signature is written in a cursive, slightly slanted style.

Michael L. Spadt
Fire Chief

MLS/sy

C: File

RECEIVED**MAY 27 2005****LINCOLN FIRE DEPT.
FIRE ADMINISTRATION****NOTICE OF GRIEVANCE**

The following notice of grievance is given in compliance with the Grievance and Arbitration procedure contained in Article 22 of the agreement between the City of Lincoln, Nebraska and the Lincoln Firefighters Association Local 644.

1. Name of Party or Parties Aggrieved
Captain John Arnold and similarly situated employess
2. Dates Giving Rise to Grievance
May 17, 2005
3. Acts of Commission or Omission Giving Rise to Grievance
Grievant was denied the right to use his own physician for the annual physical
4. Names of Party Who Caused Grievance
Fire Chief Mike Spadt and others unknown at this time
5. Specific Provisions of Agreement Violated
Management policy 310.02
Article 4, pg. 4, section 1&3 of current contract
Article 5 pg. 5 of current contract
Article 35, pg.47 of current contract
5. Remedy Sought
The Union and Grievant respectfully request that management abide to the terms and conditions of the contract between the City Of Lincoln and Local 644 dated 8-12,2004 —8-31,2008

Submitted this 26 day of May 2005
On Behalf of the Grievant,


President IAFF Local 644



Lincoln Fire & Rescue
Mike Spadt, Fire Chief
1801 "Q" Street
Lincoln, Nebraska 68508



402-441-7363
fax: 402-441-7098



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MAYOR COLEEN J. SENG

lincoln.ne.gov

June 14, 2005

John Arnold
905 South 112th
Lincoln, NE 68520

Dear John:

This letter is in response to your grievance dated May 26, 2005, and received on May 27, 2005, citing violations of Article 29, Section 2, and Article 26, Section 4 of the current contract. Your grievance states "Grievant was involuntarily placed on vacation leave".

It is the opinion of Fire Administration that you arbitrarily decided that you were not going to follow a departmental directive on the day of your scheduled physical.

On May 17, 2005 you were scheduled for your annual physical which you declined. At that time you were offered to participate in your physical or be on vacation leave by Deputy Chief Bruce Sellon. You chose to be on vacation leave.

It was Fire Administration and the Personnel Department's position that this was the appropriate leave to carry you on until you participated in your physical.

You may appeal my decision to the Personnel Director within five (5) days from the date of this decision in writing.

Sincerely,

Michael L. Spadt
Fire Chief

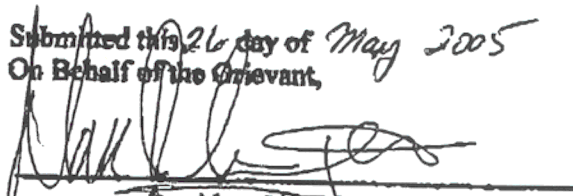
RECEIVED**MAY 27 2005****LINCOLN FIRE DEPT.
FIRE ADMINISTRATION****NOTICE OF GRIEVANCE**

The following notice of grievance is given in compliance with the Grievance and Arbitration procedure contained in Article 22 of the agreement between the City of Lincoln, Nebraska and the Lincoln Firefighters Association Local 644.

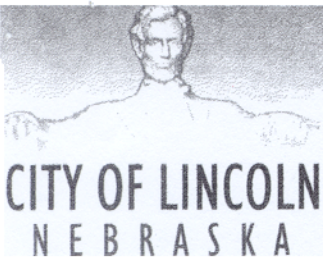
1. Name of Party or Parties Aggrieved
Captain John Arnold
2. Dates Giving Rise to Grievance
May 17, 2005
3. Acts of Commission or Omission Giving Rise to Grievance
Grievant was involuntarily placed on vacation leave
4. Name of Party Who Caused Grievance

Fire Chief Mike Spadt and others unknown at this time
5. Specific Provisions of Agreement Violated
Current contract between the City of Lincoln and local 644
Article 29, section 2
Article 26, section 4
5. Remedy Sought
The Union and Grievant respectfully request that all vacation hrs. be reinstated as to the act of 5-17, 2005

Submitted this 26 day of May 2005
On Behalf of the Grievant,



President IAPF Local 644



Lincoln Fire & Rescue
Mike Spadt, Fire Chief
1801 "Q" Street
Lincoln, Nebraska 68508



402-441-7363
fax: 402-441-7098



LINCOLN
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MAYOR COLEEN J. SENG

lincoln.ne.gov

June 17, 2005

John Arnold
905 South 112th
Lincoln, NE 68520

Dear John:

This letter is in response to your grievance dated May 30, 2005, and received on May 31, 2005, citing violations of Article 26, page 34, Article 5, page 5, and Article 35, page 47 of the current contract. You state, "The grievant was not allowed to work scheduled overtime at State Fair Park".

I am denying your grievance. Article 26 does not apply, Article 5 does not apply, and Article 35 does not apply. There is no contractual right to overtime.

You may appeal my decision to the Personnel director in writing within five (5) days from this decision.

Sincerely,

Michael L. Spadt
Fire Chief

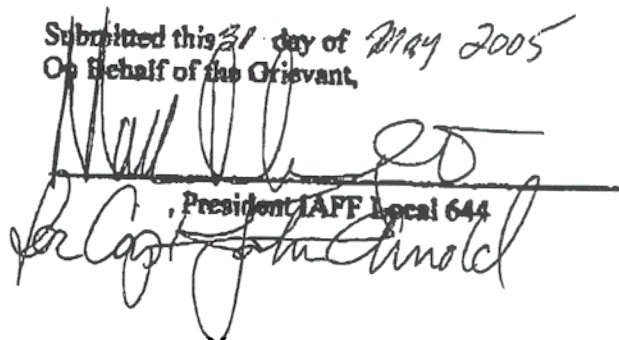
MLS/sy

RECEIVED**MAY 31 2005****LINCOLN FIRE DEPT.
FIRE ADMINISTRATION****NOTICE OF GRIEVANCE**

The following notice of grievance is given in compliance with the Grievance and Arbitration procedure contained in Article 22 of the agreement between the City of Lincoln, Nebraska and the Lincoln Firefighters Association Local 644.

1. **Name of Party or Parties Aggrieved**
Captain John Arnold
2. **Dates Giving Rise to Grievance**
5-28, 5-29, 2005
3. **Acts of Commission or Omission Giving Rise to Grievance**
Grievant was not allowed to work scheduled overtime at State Fair Park
4. **Name of Party Who Caused Grievance**
Fire Chief Mike Spadt and Chief Rich Furasek and others unknown at this time
5. **Specific Provisions of Agreement Violated**
Current contract between the City of Lincoln and local 644
Article 28, pg. 34
Article 5, pg. 5
Article 35, pg. 47
5. **Remedy Sought**
The Union and Grievant respectfully request 12 hrs overtime be paid to Grievant

Submitted this 31 day of May 2005
On Behalf of the Grievant,


Per Capta John Arnold
President IAFF Local 644

CITY OF LINCOLN
NEBRASKA

Lincoln Fire & Rescue
Mike Spadt, Fire Chief
1801 "Q" Street
Lincoln, Nebraska 68508



402-441-7363
fax: 402-441-7098



LINCOLN
The Community of Opportunity

MAYOR COLEEN J. SENG

lincoln.ne.gov

June 17, 2005

John Arnold
905 South 112th
Lincoln, NE 68520

Dear John:

This letter is in response to your grievance dated May 30, 2005, and received on May 31, 2005, citing violations of Article 4, and Article 35 of the current contract. You state, "Changes of MP 302.03 from a standard, to expectations of a working condition without negotiating with the bargaining unit".

Management Policy 302.03 was discussed at Labor Management when we advised that all members of the Department would be included (inclusive of all chiefs).

It would be the opinion of Fire Administration that your grievance has no basis, and therefore I am denying it.

You may appeal this decision to the Personnel Director in writing within five (5) days from this decision.

Sincerely,

Michael L. Spadt
Fire Chief

MLS/sy

RECEIVED

MAY 31 2005

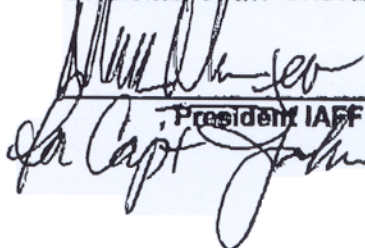
NOTICE OF GRIEVANCE

LINCOLN FIRE DEPT.
FIRE ADMINISTRATION

The following notice of grievance is given in compliance with the Grievance and Arbitration procedure contained in Article 22 of the agreement between the City of Lincoln, Nebraska and the Lincoln Firefighters Association Local 644.

1. Name of Party or Parties Aggrieved
Captain John Arnold
2. Dates Giving Rise to Grievance
5-27-05
3. Acts of Commission or Omission Giving Rise to Grievance
changes of M.P. 302.03 from a standard, to expectations of a working condition without negotiating with the Bargaining Unit
4. Name of Party Who Caused Grievance
FIRE Chief Mike SPADT and others unknown
5. Specific Provisions of Agreement Violated
ARTICLE 4 of Current Contract
ARTICLE 35 of Current Contract
6. Remedy Sought The Union and Grievant respectfully request that management abide to the terms and conditions of the Contract between the City of Lincoln and Local 644

Submitted this 30 day of May, 2005
On Behalf of the Grievant,


President IAFF Local 644



Lincoln Fire & Rescue
Mike Spadt, Fire Chief
1801 "Q" Street
Lincoln, Nebraska 68508



402-441-7363
fax: 402-441-7098



LINCOLN
The Community of Opportunity

MAYOR COLEEN J. SENG

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June 17, 2005

John Arnold
905 South 112th
Lincoln, NE 68520

Dear John:

This letter is in response to your grievance dated May 30, 2005, and received on May 31, 2005, citing violations of Article 4, and Article 35 of the current contract. You state, "Changes with MP 310.02 without negotiating with bargaining unit".

Management Policy 310.02 was discussed at length with Labor. Each member of the department was also sent an email and a departmental communication. These were sent out on March 4, 2005 advising of the change.

Therefore, your grievance is denied.

You may appeal this decision to the Personnel Director in writing within five (5) days from this decision.

Sincerely,

Michael L. Spadt
Fire Chief

MLS/sy

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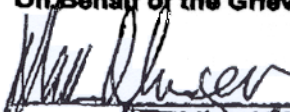

MAY 31 2005

LINCOLN FIRE DEPT.
FIRE ADMINISTRATION

NOTICE OF GRIEVANCE

The following notice of grievance is given in compliance with the Grievance and Arbitration procedure contained in Article 22 of the agreement between the City of Lincoln, Nebraska and the Lincoln Firefighters Association Local 644.

1. Name of Party or Parties Aggrieved
Captain John Arnold
2. Dates Giving Rise to Grievance
5-27-05
3. Acts of Commission or Omission Giving Rise to Grievance
Changes with Management Policy 310.02 without negotiating with Bargaining Unit
4. Name of Party Who Caused Grievance
FIRE CHIEF MIKE SPADT and others unknown
5. Specific Provisions of Agreement Violated
ARTICLE 4 of Current Contract
Article 35 of Current Contract
6. Remedy Sought
The Union and Grievant respectfully request that management abide to the terms and conditions of the Contract between the City of Lincoln and Local 644
Submitted this 30 day of May, 2005
On Behalf of the Grievant,


President IAFF Local 644

On behalf of John Arnold